

JOHN LYNDON

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1 the record. The time on the screen is 1:27.

2 -----

3 EXAMINATION

4 -----

5 BY MR. RYAN:

6 Q. Good afternoon, Mr. Lydon. Let me mark,
7 please, as Exhibit 199 a document with Bates
8 numbers DBR-AA 12651 through 55.

9 -----

10 (Deposition Exhibit 199 marked for
11 identification.)

12 -----

13 BY MR. RYAN:

14 Q. Exhibit 199 is called Financial Statement
15 Highlights, Allegheny General Hospital,
16 June 30, 1997; right?

17 A. Yes.

18 Q. If you could take a look, please, at the last
19 page of the document, do you see a computer
20 file name there in the footer?

21 A. Yes.

22 Q. Do you see that that has a directory JTL?

23 A. Yes.

24 Q. Was that a computer directory that you used
25 for files you created?

1 could go back, please, to Exhibit 198, which
2 again was a comparative cushion summary,
3 particularly the third page which was a
4 cushion roll forward.

5 A. Okay.

6 Q. We talked a little bit about how this
7 schedule showed certain reserves being
8 established and then certain reserves being
9 taken into income; right?

10 A. Yes.

11 Q. At the time did you consider the use of
12 cushions as set forth on this third page of
13 Exhibit 198 to be appropriate accounting?

14 A. Yes.

15 Q. Can you explain that a little for us, please?

16 A. Just the fact, again, to control the
17 unexpected, I guess. Cushions happen. I
18 mean, reserves are established through charge
19 differentials and uncollectible allowances.

20 We didn't always take those to income
21 when we knew for that month if the reserve
22 exceeded the amount that should have been
23 recorded. I felt it was appropriate. Yes.

24 Q. Can you think of any accounting entries that
25 you made while you were at AHERF that you

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1 A. Yes, although I don't remember creating these
2 highlights, but go ahead.

3 Q. Well, do you recall that there were each
4 month for Allegheny General Hospital
5 documents called Financial Statement
6 Highlights?

7 A. Yes.

8 Q. Who created them?

9 A. I do not recall. It may very well have been
10 me, but I -- we had to go through every month
11 obviously and look at the financial
12 statements, prepare highlights. I just don't
13 recall preparing them. It may very well be
14 me. I'm sure it was a group effort between
15 myself, Al and Jack Nelson.

16 Q. Okay. Mr. Nelson was the manager for AGH?

17 A. That's correct.

18 Q. Do you know who received the monthly
19 financial statement highlights for AGH?

20 A. IT would probably have gone to from Al to
21 Steve Spargo.

22 Q. Do you know whether it went to Mr. Dionisio?

23 A. That's quite possible that they went to Joe
24 Dionisio.

25 Q. All right. You can put that aside. If you

1 believed at the time were inappropriate?

2 A. No, no.

3 Q. Did you ever hear of any accounting entries
4 being made by others at AHERF that you
5 believed at the time were inappropriate?

6 A. Not that I recall.

7 Q. As you sit here today are you aware of any
8 accounting entries where some people may be
9 saying that they were inappropriate?

10 MR. JONES: Object to form.

11 A. I'm not sure who some people --

12 Q. Anyone. I mean, have you heard about any
13 accounting entries at AHERF where anyone has
14 alleged that they may have been
15 inappropriate?

16 A. Obviously, through all of this, the
17 bankruptcy and all this, the endowment
18 entries were questioned, but that's -- I mean
19 at the time we felt they were appropriate,
20 and we knew that Coopers was going to look at
21 them.

22 So, I mean, it was unusual, but we
23 felt it was appropriate at the time. We
24 thought what we were doing was suggested in
25 the FASB.

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1 Q. When you were involved in the FASB 117
2 classification project in 1996, you knew that
3 there was a question as to whether AHERF
4 would ever be able to get access from the
5 trustee to the Lockhart trust funds; right?
6 A. I don't know if I knew that at the time. I
7 think we were going ahead and booking the
8 entry based on what we had from an accounting
9 perspective. I don't know that it was
10 established that there was a question.
11 I don't recall if I knew that there
12 was going to be an issue getting the dollars.
13 I was charged with basically recording what
14 we thought what should happen from 117.
15 Q. I didn't intend to ask you if you knew
16 about -- if AHERF was going to get access to
17 cash or not since I understand that was
18 something that the folks in treasury dealt
19 with; right?
20 A. Yes, yes.
21 Q. My question was intended to be whether you
22 were -- strike that. Did the thought cross
23 your mind at the time that you were involved
24 in the FASB 117 classification project that
25 AHERF might or might not be able ultimately

1 bit of a gray area?
2 MR. JONES: Object to form.
3 A. I don't know. I may -- again, it goes to the
4 unusual piece did I think it was gray or
5 unusual or both? I'm not sure there is a big
6 definition or there is a fine -- I'm not sure
7 there is a big divide between those two.
8 But I knew regarding it, it was going
9 to be looked at by others, so that if it was
10 not -- if it was unusual and we were doing it
11 wrong, we would have been told by Coopers
12 that it was wrong, it was incorrect.
13 Q. Now, Coopers & Lybrand were the independent
14 auditors for AHERF; right?
15 A. That's correct.
16 Q. Who do you recall dealing with from Coopers
17 during their audit?
18 A. Basically the people in charge were Amy
19 Frazier and Mark Kirstein. Probably mostly
20 dealt with Amy Frazier. There were several
21 senior accountants and whatever levels they
22 were. I don't recall all of them.
23 Mark Panucci was one, I think,
24 Brian -- I don't recall his last name -- and
25 then there is Kristen one year. You know how

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1 to get access to the cash in these trust
2 funds from the trustee?
3 A. I don't recall, but I don't think so. I
4 mean, again, I think we were looking at the
5 FASB and what we thought the interpretation
6 of it was and recording it correctly.
7 I don't know that I ever -- maybe I
8 did at the time. I just don't recall at this
9 point in time the question whether the cash
10 was to follow. I may have. I just don't
11 recall.
12 Q. Now, FASB 116 and 117 were changes in the
13 rules for accounting for endowment funds;
14 right?
15 A. Right.
16 Q. So you thought at the time, didn't you, that
17 it was a bit unusual that AHERF was able to
18 move such significant amounts of money out of
19 restricted net assets?
20 A. Sure, absolutely. Changes in the law and
21 pronouncement, tax law, these things created
22 all the time, it appears unusual, but it
23 happens. Yes, I did think it was unusual.
24 Q. Did you think that the classification of the
25 endowment fund under FASB 116 and 117 was a

1 accounting firms work, every year there are
2 new faces. Amy and Mark Kirstein were there
3 a few years in a row.
4 Q. Is Brian maybe Brian Christian?
5 A. Brian Christian, yes.
6 Q. And you mentioned one further person. Let me
7 throw out two different names to you and ask
8 you whether it was either of those people.
9 There is somebody called Christa Porter and
10 somebody called Kristen Heinlein?
11 A. I do remember both now that you throw them
12 out.
13 Q. You actually had interactions with them both?
14 A. Yes.
15 Q. Is there anyone else from Coopers you
16 remember?
17 A. Other than the partner Bill Beuttner.
18 Q. Did you ever deal directly with Mr. Beuttner?
19 A. We had occasion to talk once in a while in
20 group meetings, but any kind of issues
21 probably wouldn't have gone through me. They
22 would have gone through Al, Dan or Steve.
23 Q. That's Mr. Adamczak, Mr. Cancelmi or
24 Mr. Spargo?
25 A. That's correct.

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1 Q. Do you recall dealing with Mr. Panucci on the
2 FASB 117 classification project?

3 A. If I remember correctly -- again, it's been
4 quite a while -- I thought that Mr. Panucci
5 and Amy Frazier and I sat in my office and
6 discussed what we had done for 117,
7 particularly with regards to the Lockhart
8 funds.

9 Q. What can you remember about that meeting?

10 A. Just basically what our thought process was
11 going through, what I had done. A lot of
12 details I'm sure I just can't remember. It's
13 just too long ago.

14 Q. Sure. Do you recall providing Coopers with
15 certain schedules that you had prepared
16 relating to the endowment classification?

17 A. If I didn't provide them, they were provided
18 to them. They had access to all those
19 schedules. Any of those roll forwards we had
20 they -- it should have been provided to them
21 and had access to all of them.

22 Q. So you're talking about schedules like the
23 first page of Exhibit 19?

24 A. Yes, yes. And any of the journal entries
25 they had access to all of those, but they

1 recall.

2 Q. Do you recall discussing with Ms. Frazier or
3 Mr. Panucci the language in the Lockhart
4 trust agreements that says things like income
5 can be used for charitable purposes and so
6 forth?

7 A. I think that's what I was referring to when
8 we said we had a meeting.

9 Q. Okay. So --

10 A. We talked about that. That's my
11 recollection.

12 Q. So this topic of what the Lockhart trust
13 agreement said about the uses of income came
14 up with Coopers?

15 A. That's my recollection, yes.

16 Q. And you believe that you explained to Coopers
17 your thinking about how AHERF could satisfy
18 those uses through the general charitable
19 services that it provided?

20 A. Yes.

21 Q. Do you recall discussing with Coopers
22 provisions in the Lockhart trust agreements
23 that talk about whether capital gains should
24 be classified as part of corpus or part of
25 income?

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1 should have been provided the roll forwards
2 as part of their -- as part of the year-end
3 analysis.

4 Q. All right. Now, when you say that Coopers
5 had access to the journal entries, you don't
6 mean AHERF actually as a matter of course
7 provided Coopers with copies of all of
8 AHERF's journal entries?

9 A. No, no. They would have probably had to be
10 requested, but they definitely would have
11 gotten the roll forward schedules. Some of
12 those roll forwards they may have attached
13 journal entries.

14 It depended on what the entries were.
15 I mean, I can't remember any criteria, but if
16 they thought it helped better explain.

17 Q. Do you recall providing Ms. Frazier or
18 Mr. Panucci with excerpts from the Lockhart
19 agreements that you prepared to show them the
20 language about the uses of income that were
21 permissible?

22 MR. JONES: Object to form.

23 A. I don't recall. I don't recall. I don't
24 know if I specifically showed them that or I
25 directed them back to treasury. I just don't

1 MR. JONES: Object to form.

2 A. I don't recall specifically, no.

3 Q. Do you recall anything about discussing that
4 subject with Coopers?

5 A. No, I don't.

6 Q. The only language from the Lockhart trust
7 agreement that you can remember discussing
8 with Coopers is the language about the use of
9 income; right?

10 MR. JONES: Object,
11 mischaracterization.

12 A. Yes. I think we had a general discussion as
13 to what my logic was going forward with it as
14 to why we deemed it to be appropriate to move
15 it from permanently to temporary, permanently
16 restricted to temporarily restricted.

17 Q. Okay. And now in terms of the actual trust
18 agreements or other legal documents
19 establishing these trust funds, can you
20 remember discussing with Coopers any
21 provisions other than the provisions about
22 the use of the income that was allowed under
23 these documents?

24 A. I don't recall.

25 Q. You yourself did not provide any of the

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1 would be reviewing the general ledger and
 2 looking at the changes in these accounts to
 3 me indirectly shows approval of what was
 4 done.
 5 Q. That would show approval or assent. Do you
 6 remember in advance of the process anyone
 7 suggesting to you what the outcome ought to
 8 be before the actual classification work had
 9 been started by you?
 10 A. No, no, I don't.
 11 Q. Do you recall in fiscal year '96 when you
 12 were about the business of performing FASB
 13 116, 117 classification that AHERF was
 14 experiencing a cash crunch, if you will?
 15 A. Yes. I'm sure, I'm sure at the time I was
 16 aware of that.
 17 Q. And that was something that was discussed by
 18 superiors to you in the accounting
 19 organization at the time?
 20 MR. RYAN: Objection.
 21 A. I mean, I don't know. Discussed with me as a
 22 specific subject? I don't know that it was
 23 brought up. I mean, the numbers are the
 24 numbers. You're looking at the general
 25 ledger you're looking at the cash accounts,

1 have been June of '96.
 2 Q. That's the end of fiscal '96?
 3 A. Yes.
 4 Q. And you now told us that you assumed you had
 5 it in front of you, and I think in part maybe
 6 perhaps you're cc'd on this here in
 7 handwriting?
 8 A. That's correct.
 9 Q. My question is do you recall as you sit here
 10 today in the year 2002, referring back to
 11 this memorandum or some other memorandum
 12 perhaps or some other writing in helping you
 13 do your classification work?
 14 A. Specifically referring back to it, no, I
 15 don't.
 16 Q. Let me fix on the second part of what was a
 17 multipart question. Do you recall referring
 18 back to any written documentation during your
 19 classification work other than the trust or
 20 endowment documents themselves, the endowment
 21 organic document themselves, and the FASBs?
 22 A. Other than the FASBs?
 23 Q. And the trust documents?
 24 A. I don't recall specifically, no.
 25 Q. You have no reason to doubt if this document

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1 you know what the cash flow is.
 2 Q. When you say the numbers are the numbers and
 3 the gesture the way you did for the purpose
 4 the paper record, you meant the financial
 5 statements --
 6 A. They are there.
 7 Q. -- would have revealed the cash situation
 8 was not what you would have hoped it to be?
 9 A. That's correct.
 10 Q. I ask you to turn back to Exhibit 184 for a
 11 moment, Mr. Lydon. You testified, I believe,
 12 in response to questions from Mr. Ryan that
 13 you had seen Exhibit 184 before; am I right?
 14 A. Yes. I believe I recall seeing this.
 15 Q. My question to you now is merely one that
 16 tries to put a finer point on the time at
 17 which you would have seen it, and I guess
 18 that is do you recall having this document
 19 with you when you or having had a chance to
 20 read it either at the time you were
 21 performing your FASB classification project
 22 or before?
 23 A. I would assume that I had it in my possession
 24 when I did the reclass because the reclass
 25 was not done until fiscal '96, which would

1 was available, that is, Exhibit 184, you
 2 might have looked back at it?
 3 A. That's correct.
 4 Q. When you conducted the FASB classification
 5 review, Mr. Lydon, you had never done that
 6 before?
 7 A. No. That's correct, because it was a --
 8 Q. Of the Lockhart funds in particular?
 9 A. Yes.
 10 Q. And the question, the answer to the question
 11 was self-evident. It was a new rule, and
 12 this was the first time for you in doing such
 13 a classification review?
 14 A. That's correct.
 15 Q. And did you take comfort in the fact that
 16 your work would be looked upon or looked at
 17 rather by others?
 18 A. Absolutely. Going through it, I knew that I
 19 was making these entries and the outcome was
 20 going to be reviewed by superiors and also
 21 that Coopers was going to take a look,
 22 Coopers would look at it at year-end and let
 23 us know if we booked something incorrectly or
 24 inappropriately.
 25 Q. And you consider both of those kinds of

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1 things, a review by superiors and a review by
 2 Coopers & Lybrand, as an independent check on
 3 your work at what you considered at the time
 4 to be a new classification arena?
 5 A. That's correct.
 6 Q. I think it was your testimony that Coopers
 7 undertook such a review because you discussed
 8 it with Ms. Frazier and Mr. Panucci; is that
 9 right?
 10 MR. RYAN: Objection.
 11 A. That's my recollection. That's correct.
 12 Q. You discussed the Lockhart funds and your
 13 FASB review of them with those two Coopers &
 14 Lybrand employees?
 15 A. That's my recollection as to what my logic
 16 was going through.
 17 Q. And your recollection is that took place in
 18 your office?
 19 A. Yes. That's my recollection.
 20 Q. At the Clark Building?
 21 A. That's correct.
 22 Q. I could give you the floor or office
 23 number --
 24 A. 44 --
 25 Q. 429 or 431?

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1 A. One of those two.
 2 Q. My next question is do you recall when
 3 approximately that conversation took place?
 4 Was it apparently during the audit process?
 5 My question is can you fix it in a month?
 6 A. I don't think I can.
 7 Q. Can you fix it in fiscal year 1996, the audit
 8 work done in connection with fiscal year
 9 1996?
 10 A. Yes, yes.
 11 Q. And that's when it took place?
 12 A. Yes.
 13 Q. Do you recall Ms. Frazier and Mr. Panucci or
 14 anyone else from Coopers asking you for
 15 specific documentation regarding the Lockhart
 16 trusts and your FASB classification of the
 17 funds therein?
 18 A. I don't recall specifically them asking me
 19 for that. Again, we prepared packages for
 20 each work papers for each general ledger
 21 account, and they were given the work papers.
 22 Q. Would it have been your practice if asked for
 23 documentation or information regarding the
 24 Lockhart funds or trusts and your FASB review
 25 to have complied and provided the

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1 information?
 2 A. Absolutely.
 3 MR. RYAN: Objection.
 4 Q. Similarly any documentation that might have
 5 been requested, would it have been your
 6 practice to provide?
 7 A. Yes.
 8 MR. RYAN: Objection.
 9 Q. Sir, in your time at AHERF in the accounting
 10 department, Mr. Lydon, do you recall ever
 11 denying anyone from Coopers documentation or
 12 information that they requested in the audit
 13 process?
 14 A. No. Coopers had access to everything that we
 15 had, general ledger accounts, schedules,
 16 journal entries. It was all there.
 17 Q. I'm going to ask you to refer quickly back to
 18 Exhibit 20, which was marked about the
 19 time -- shortly before Exhibit 187, I
 20 believe, in this deposition. It is the
 21 October 30 memo of 1996 to Mr. Martin from
 22 Mellon Bank in the person of Barbara
 23 Robinson.
 24 A. Okay.
 25 Q. At an earlier time today you and Mr. Ryan

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1 discussed the trust document language at the
 2 top of page 2 of this letter referred to in
 3 the text letter as article X, Roman numeral
 4 X. Are you with me?
 5 A. Yes.
 6 Q. The language that reads, In the case of the
 7 sale of any securities of the trust fund at a
 8 premium or profit, such premium or profit
 9 shall become a part of the corpus and not
 10 income. Do you see that quote again?
 11 A. Yes.
 12 Q. Mr. Ryan asked you and I believe you
 13 responded to his question. The question was
 14 having read that language or if you had read
 15 that language in the trust document quoted
 16 there, you would have classified the income
 17 as restricted. Do you recall that testimony?
 18 A. I think so, yes.
 19 MR. RYAN: Objection.
 20 Q. My question is do you mean to say permanently
 21 restricted?
 22 A. I don't know that I know that. I don't know
 23 what my thought was at the time going through
 24 it, if I even saw that.
 25 Q. If you read it now and knowing whatever you

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1 for your time, Mr. Lydon. Mr. Lydon, perhaps
2 on the record is the best way to do it since
3 you didn't appear to be represented today.

4 You have the right, as we all, I
5 think, understand it -- if somebody disagrees
6 with me, shout -- to read this transcript,
7 make changes to it under the Federal Rules of
8 Civil Procedure.

9 The court reporter can make it
10 available for you, and you can also decline
11 to do that if you so choose, but we wanted to
12 make sure you knew you had the opportunity.

13 THE WITNESS: Okay. Thank you.

14 THE VIDEOGRAPHER: With there being
15 no further questions this deposition is
16 concluded at 4:10.

17 - - -

18 (The proceedings were concluded at 4:10 p.m.)

19 - - -

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1 COMMONWEALTH OF PENNSYLVANIA) CERTIFICATE
2 COUNTY OF ALLEGHENY) SS:

3 I, Claire Gross, RDR, a Court Reporter and
4 Notary Public in and for the Commonwealth of
5 Pennsylvania, do hereby certify that the witness,
6 John T. Lydon, was by me first duly sworn to testify
7 to the truth; that the foregoing deposition was taken
8 at the time and place stated herein; and that the
9 said deposition was recorded stenographically by me
10 and then reduced to printing under my direction, and
11 constitutes a true record of the testimony given by
12 said witness.

13 I further certify that the inspection, reading
14 and signing of said deposition were NOT waived by
15 counsel for the respective parties and by the
16 witness.

17 I further certify that I am not a relative or
18 employee of any of the parties, or a relative or
19 employee of either counsel, and that I am in no way
20 interested directly or indirectly in this action.

21 IN WITNESS WHEREOF, I have hereunto set my hand
22 and affixed my seal of office this 19th day of June,
23 2002.

24 _____
25 Notary Public

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1 COMMONWEALTH OF PENNSYLVANIA) ERRATA
2 COUNTY OF ALLEGHENY) SHEET

3 I, John T. Lydon, have read the foregoing pages
4 of my deposition given on Tuesday, June 18, 2002, and
5 wish to make the following, if any, amendments,
6 additions, deletions or corrections:

7 Page/Line Should Read Reason for Change

8

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In all other respects, the transcript is true and
correct.

John T. Lydon

Subscribed and sworn to before me this

_____ day of _____, 2002.

Notary Public

AKF Reference No. Cg70722

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Maher Dep.

In The Matter Of:

**AHERF
PRICEWATERHOUSECOOPERS, LLP**

**ANGELA MAHER
February 24, 2003**

**MANHATTAN REPORTING CORP.
420 Lexington Avenue – Suite 2108
New York, NY 10170
PH: 212-557-7400 / FAX: 212-692-9171**

MAHER, ANGELA (2/24/2003)

Word Index included with this condensed transcript

ANGELA MAHER

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1 discussions?

2 A. If there was a discussion, I would have been

3 a part of a larger group listening to this

4 because I didn't have one-on-one discussions

5 with David McConnell, so what you see here is

6 what there is, I guess.

7 Q. When you were deposed last time Mr. Hamilton

8 asked you about Forbes' merger with AHERF,

9 and I believe you said that at that time, at

10 that time period there was a lot of

11 consolidation going on in the healthcare

12 market; is that true?

13 A. Yes.

14 Q. In what regions was that occurring? Did that

15 include Pittsburgh?

16 A. That included Pittsburgh. It was a national

17 phenomenon, and in Pittsburgh UPMC, which

18 you're probably familiar with, was acquiring

19 various facilities in the city, and AHERF

20 wanted to reach out and acquire hospitals as

21 well; and since it had medical schools in the

22 east, it made sense for it to acquire

23 facilities in the east, eastern part of the

24 state, and they wanted to acquire facilities

25 here in Pittsburgh as well. At the time

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1 AHERF and UPMC were considered to be strong

2 rivals.

3 Q. What was the rationale behind consolidating

4 like that?

5 MR. HAMILTON: Object to form.

6 Q. You can answer.

7 A. My understanding was that it had to do with

8 the economics, that in a system you could

9 gain economies of scale, you can close some

10 facilities, you could use some facilities as

11 feeders into other facilities, you could take

12 departments that were only doing -- you could

13 get rid of the duplication of various

14 departments and reduce staff and so forth.

15 And also I had the sense that when one entity

16 started that strategy, it became necessary

17 for others to follow that strategy for fear

18 that they would be left behind.

19 Q. And why is it that Forbes then wanted to

20 merge with AHERF?

21 A. Well, I didn't make that decision, and I

22 wasn't part of those discussions. I can only

23 surmise that Forbes felt that it couldn't

24 survive in the long term without aligning

25 with a stronger partner.

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1 Q. I think you mentioned at your prior

2 deposition that there were financial

3 pressures on Forbes; is that correct?

4 A. Yes.

5 Q. What were those pressures?

6 A. Well, reimbursement continued to decline for

7 Medicare, Medicaid. There were the HMOs that

8 were continuing to reduce their per capita

9 fees. PPOs were entering into the market.

10 By and large the overall reimbursement

11 situation continued to get worse and worse.

12 I believe that many in management

13 felt that they couldn't -- that Forbes would

14 not be viable over the long term if it didn't

15 find a suitable partner that could give it

16 the economies of scale that it needed.

17 ----

18 (Exhibit 1191 marked for identification.)

19 ----

20 Q. You've been handed what's marked Exhibit 1191

21 which has the Bates numbers ABM 001565, and

22 then it skips to 67 for some reason. I don't

23 know if there is a page 1566 or not.

24 I believe you looked at least at the

25 second page of this at your deposition with

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1 Mr. Hamilton. Do you recall that?

2 A. Yes.

3 Q. I believe you said that these are suggestions

4 that you came up with in the spring of '98;

5 is that right? Strike that. Do you know

6 when you came up with these suggestions?

7 A. I don't know when I came up with them, but I

8 remember having a discussion with Mike Martin

9 about them. I was concerned that it was

10 probably in the fall of '97 when AHERF let go

11 1,200 employees in Philadelphia, and I became

12 alarmed because when you have that kind of a

13 downsizing it doesn't speak well for the

14 long-term viability of the organization, or

15 at least it gives you a hint there are things

16 that need to be fixed.

17 I sat down and I started writing out

18 ideas that I thought were worth pursuing, and

19 I gave them to him. I don't know what he did

20 with them.

21 Q. Besides Mr. Martin, did you give your list to

22 anybody else?

23 A. No.

24 Q. Did you have discussions about any of these

25 ideas with anyone else within AHERF?

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1 A. Oh, I probably had discussions with my
2 coworkers.
3 Q. Ms. Gilbert and Ms. Mertz?
4 A. Probably.
5 Q. Do you know if there were other people within
6 AHERF attempting to come up with ideas to
7 improve the situation at the time?
8 A. There may have been others. There should
9 have been others. If this weren't, it was
10 clear that there needed to be having major
11 discussions about how to fix things.
12 Q. Were you involved in any discussions about
13 how to fix things?
14 A. No. As I said, I became alarmed and just sat
15 down and wrote these because it disturbed me
16 the way things were going. I only shared
17 this with Mike Martin as far as I can
18 remember.
19 Q. And do you have any opinion as to whether
20 these undertakings would have prevented the
21 bankruptcy?
22 A. You know, it's hard to separate what you know
23 afterwards from what you know at the time.
24 Sitting here I know a lot more today than I
25 knew then. Particularly there is a very well

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1 written newspaper article that lasted through
2 seven, I think, series of what went wrong
3 with AHERF, and it's hard for me to separate
4 what I think now from what I thought then.
5 But I was just very concerned, and I
6 don't know if there was anything that could
7 have fixed it given the commitments that were
8 made to various entities. I mean, you really
9 would have gone after it with a real sharp
10 knife and just cut out all sorts of things
11 that at the time were supposed to make sense
12 like buying these physician practices, which
13 I think was probably what really pushed them
14 over the edge. But there were probably many
15 other things as well.
16 Q. What commitments were you talking about?
17 A. Well, for instance, I mean, like salaries
18 would have been a perfect one. I suspect
19 that AHERF really had salaries that were just
20 really very, very high in comparison to other
21 facilities who had that kind of
22 responsibility, and I think that that's a
23 commitment, that maybe you should go back and
24 talk about people voluntarily reducing some
25 of these extraordinary salaries that they

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1 had. The difference between the salaries at
2 AHERF and at Forbes were extraordinary. It
3 was more than double. So that's one thing.
4 I don't know.
5 Q. I think Mr. Hamilton asked you this, but I'll
6 ask again. Do you know what you meant by the
7 bullet points under sacred cows?
8 A. Well, I don't know why I called it sacred
9 cows other than to say these are taboo things
10 you wouldn't want to talk about, like
11 lowering the management's salaries and maybe
12 everybody else's a little bit too.
13 Management capabilities, I'm not sure
14 that the management was -- the management
15 could have been better. If they were, they
16 probably wouldn't be in that spot. Board
17 issues, probably from that I might have
18 meant -- I'm only guessing now -- that if the
19 board were -- you know, I didn't have the
20 sense -- I didn't really understand whether
21 the board had the sense of the urgency that I
22 felt I had, and so I guess that would have
23 been an issue, are they really aware of all
24 of the things, are they really getting good
25 information? Didn't have any way to know.

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1 Q. Last one.
2 ----
3 (Exhibit 1192 marked for identification.)
4 ----
5 Q. You've been handed what's been marked as
6 Exhibit 1192, which I believe you also
7 discussed at your prior deposition?
8 A. Yes.
9 Q. The Bates numbers of this document ABM
10 1001823 and 1825. I don't know if there is a
11 1824 because I haven't seen it. Do you
12 recognize this letter?
13 A. Yes.
14 Q. You wrote this letter?
15 A. I did.
16 Q. And the handwriting on the page that's 1825
17 is yours?
18 A. It is.
19 Q. Now, you never attended any board meetings;
20 is that right?
21 A. No.
22 Q. You never reviewed the material that was
23 provided to them --
24 A. No, none.
25 Q. -- apart from the investment reports which

ANGELA MAHER

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1 you had a role in preparing?

2 A. Yes.

3 Q. How much interaction did you have with the

4 trustees?

5 A. I had no interaction with the trustees in a

6 professional nature.

7 Q. The first sentence of this letter says, I'm

8 writing this letter to alert you to the near

9 collapse of the Allegheny system. What was

10 your basis in March of '98 for believing that

11 Allegheny was near collapse?

12 A. All right. Let me just give you some

13 information about this letter.

14 Q. Sure.

15 A. I would go home at night and think -- you

16 know, I would see money coming out of our

17 funded depreciation, and I was not used to

18 that. I came from an organization where we

19 only put money in, we didn't take it out, and

20 we only -- we were quite solvent at Forbes,

21 and so I had not seen this phenomenon where

22 large amounts of cash were being taken out of

23 the funds that were available to the system.

24 So I saw that and I also saw that we

25 were letting go 1,200 people. We were having

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1 trouble meeting our bond covenants. I was

2 hearing they did a salary study on UPMC and

3 Allegheny and the salaries for Allegheny were

4 just extraordinary.

5 You know, pulling all these pieces

6 together. It's a kaleidoscope of

7 information, and I would think about this and

8 think, well, if I were a board member, would

9 I want -- would I want to react to some of

10 this.

11 I thought well, maybe they don't know

12 about it. And I said, well, maybe they do

13 know about it. I didn't know what to think.

14 One afternoon I just sat down and wrote this.

15 But then I never sent it to anyone. No one

16 saw that before it became part of the

17 materials that I gave to the deposition the

18 first time.

19 I never sent it to anybody because I

20 didn't know what anybody knew and I didn't

21 feel as though I really knew everything. So

22 to send a letter like this which could have

23 been a bomb, was that responsible? So I

24 didn't do it. I never sent it. You know how

25 you write in a moment of passion? That's

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1 what I wrote, so that's what this is.

2 Q. Did you share this letter with anybody else

3 within treasury?

4 A. No. No one saw it. No one saw the light of

5 day. Nothing. No one saw it. No one in my

6 family, no one.

7 Q. Did you ever discuss the types of concerns

8 that you had written down with anybody within

9 AHERF?

10 A. Steady drain of cash flow, we talked about

11 that in the treasury department. The

12 inaction for so many months. As I said,

13 there is a steady drain, you're losing all

14 these employees, things are going bad. It

15 occurs to me that we need to take charge. We

16 need to do something, make some specific

17 moves.

18 Now, maybe the reduction of staff and

19 the -- in the East was considered to be the

20 move to make. Maybe that was the response.

21 And whereas I saw it as one more symptom,

22 they may have said this is the answer, this

23 is going to make the difference.

24 Q. So you don't know what moves the board had

25 considered or was taking?

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1 A. No. I had no idea.

2 Q. You had no idea what financial information

3 they actually had available to them?

4 A. No.

5 Q. For how long a period did you believe that

6 there were problems at AHERF?

7 A. Problems meaning financial problems?

8 Q. Yes, financial problems.

9 A. Well, I always questioned whether I knew what

10 I knew and whether what I knew was really

11 relevant to what was there. Probably in late

12 '97 I started to think, you know, that this

13 has got to be a problem, we are taking money

14 out, we are using it. I don't see money

15 coming in.

16 How this was going to turn around I

17 didn't know, but I didn't -- I didn't know if

18 the board had put in place things that would

19 have changed the situation, so I always

20 questioned -- I always worried, but I always

21 questioned, well, maybe somebody knows, maybe

22 somebody is doing something about this, maybe

23 I'm not -- I don't have all the information,

24 and I'm not privy to decisions that other

25 people would make -- would change the

ANGELA MAHER

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1 COMMONWEALTH OF PENNSYLVANIA) E R R A T A
COUNTY OF ALLEGHENY) S H E E T

2
3 I, ANGELA MAHER, have read the forgoing pages
4 of my deposition given on Monday, February 24, 2003,
5 and wish to make the following, if any, amendments,
6 additions, deletions or corrections:

7 Page/Line Should Read Reason for Change
8
9
10
11
12
13
14
15
16
17
18
19

20 In all other respects, the transcript is true and
21 correct.

22 _____
ANGELA MAHER

23 Subscribed and sworn to before me this
24 _____ day of _____, 2003.

25 _____
Notary Public
AKF Reference No. Cg74257

Mammarella Dep.

In The Matter Of:

***AHERF v.
PRICEWATERHOUSECOOPERS, L.L.P.***

***PAULA MAMMARELLA
July 28, 2003***

***LEGALINK MANHATTAN
420 Lexington Avenue - Suite 2108
New York, NY 10170
PH: 212-557-7400 / FAX: 212-692-9171***

MAMMARELLA, PAULA



LEGALINK

A WORDWAVE COMPANY

PAULA MAMMARELLA

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<p>1 Q. Do you see how there's that exception in the 2 first clause that I read you? 3 A. I see that it says except for, yes. 4 Q. Do you recall learning at the time or in 5 December of 1997 that Charles Morrison had 6 drawn an exception to his statement that the 7 financial statements, quarterly financial 8 statements for Delaware Valley Obligated Group 9 were prepared in compliance with GAAP? 10 A. I don't recall specifically the circumstances 11 under which we got this or reading it, but I 12 see that it evidences this per the certificate. 13 Q. Did you learn at any time in calendar year 1997 14 that certain parts of unaudited financial 15 statements being presented to PNC were not 16 prepared in compliance with GAAP? 17 A. I don't recall specifically when or how that 18 happened. 19 Q. Do you recall learning at any point while you 20 were senior financial analyst that certain 21 members of AHERF management had alerted you or 22 any other member representative of PNC that 23 some part of a financial statement, a set of 24 financial statements that had been prepared by 25 AHERF, had been prepared not in compliance with</p>	<p>1 speaking with any members or inquiring with any 2 members of AHERF management about any 3 violations of GAAP that they had informed you 4 of or any members of PNC of? 5 A. I don't recall having those specific 6 conversations with any members of AHERF 7 management, although I was at a meeting with 8 David McConnell; I can't remember the 9 specifics, however, of what was discussed at 10 that meeting. 11 Q. Do you recall ever having any conversations 12 with the outside auditors of any AHERF 13 entities? 14 A. I do not recall having any of those. 15 Q. And, in particular, you have no recollection of 16 any conversation about any GAAP violations 17 with -- 18 Let me rephrase that. 19 Accordingly, you have no recollection 20 of any conversations with any external auditors 21 of AHERF entities about any GAAP violations 22 that had been reported to you by AHERF 23 management? 24 MR. POHL: Objection. 25 THE WITNESS: I have no recollection.</p>
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<p>1 GAAP? 2 A. I recall that there were certificates that we 3 received that had language in it that indicated 4 that there were issues with their compliance 5 meaning that something that -- a calculation 6 for compliance with certain covenants that we 7 had were not being met according to the 8 calculation as it was originally to be set up. 9 Q. Do you recall ever learning about any instances 10 where AHERF management was informing PNC about 11 any parts of the financial statements not being 12 prepared in accordance with GAAP as opposed to 13 simply that there was some instance of a 14 covenant noncompliance? 15 A. I don't remember the specifics of those kind of 16 nuances and what was being communicated back 17 and forth. 18 Q. Okay. 19 A. Because I just don't remember. 20 Q. Sure. Do you recall any discussions you might 21 have had at PNC about any reported violations 22 of GAAP or any violations of GAAP reported by 23 AHERF management to PNC? 24 A. I don't recall. 25 Q. And, accordingly, you don't recall ever</p>	<p>1 MR. TERUYA: Okay. 2 BY MR. TERUYA: 3 Q. At the time in December of '97, did you have 4 any practice with respect to following up with 5 questions about any officers' certificates you 6 might have received at the time from AHERF 7 management? 8 A. We had a practice of following up on any 9 compliance certificates from any institution or 10 any health care or any type of company we dealt 11 with where we had questions with regard to 12 anything that we didn't understand. 13 We were supposed to make sure we 14 understood them and would follow up on anything 15 we had questions on, not just AHERF. 16 Q. Do you know if under that practice -- or under 17 that practice can you tell, looking at this 18 certificate, whether you, in fact, followed up 19 with members of AHERF management about the 20 clause with respect to the \$23 million 21 approximately? 22 A. I can't remember the beginning of your 23 question. What was the beginning of your 24 question? 25 MR. TERUYA: Could you read that</p>

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1 back, please.

2 - - - -
3 (The record was read back by the Reporter.)

4 - - - -
5 THE WITNESS: I don't recall.

6 MR. TERUYA: Okay. We can set this
7 document aside.

8 I'm going to mark as Exhibit 1785 a
9 document bearing Bates Nos. 30 -- sorry, PNC
10 30833 through 930 and it appears to be a credit
11 information sheet dated December 19, 1997,
12 signed by, among other people, Paula
13 Mammarella.

14 - - - -
15 (Deposition Exhibit No. 1785 marked
16 for identification.)

17 - - - -
18 BY MR. TERUYA:

19 Q. Let me ask you as you flip through it whether
20 you recognize this particular document.

21 A. I recognize it as a credit information sheet
22 which is part of -- and then followed by a
23 credit underwriting memorandum as part of a
24 total credit underwriting memorandum.

25 Q. So this whole package of materials is what you

1 (The witness reviewed the document.)

2 - - - -
3 THE WITNESS: Yes. I see them.

4 BY MR. TERUYA:

5 Q. Do those numbers appear to be written in your
6 handwriting?

7 A. Yes. I haven't gone through the whole thing
8 yet but --

9 Q. Oh, okay. You're saying as you look through
10 those, that this appears to be all part of one
11 package of materials?

12 A. We sure can kill trees, can't we?

13 There are just a couple that don't
14 have numbers on them that aren't attached.
15 There was like one or two in the middle that
16 look like they should belong to the same
17 package. I don't know about the spreads at the
18 end.

19 Q. So with the exception of the last couple of
20 pages at the back which you can't be sure
21 about, it appears this is all one package from
22 one document?

23 A. It appears, yes.

24 Q. Is this the kind of package you put together
25 from time to time while you were senior

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1 were referring to earlier as a credit
2 underwriting memorandum?

3 A. There's a lot of stuff in here. Without
4 looking through the whole thing, I can see what
5 the beginning of it is, a credit underwriting
6 memorandum package.

7 Q. Can you tell as you flip through it what the
8 other parts of this document are?

9 A. It looks to be part of an entire package, a
10 credit underwriting package. There's different
11 dates on things in here. Some of it's dated
12 January 30th. Some of this is dated December,
13 so I don't know if this was all together or --

14 It looks like a couple things were
15 combined. There's a risk rating grade that's
16 dated January -- I'm sorry --

17 No. There's another date on here.
18 I'm sorry. It's hard to say without looking
19 through it very carefully. It appears to be
20 all one package from December.

21 Q. Do you see handwritten at the bottom there's,
22 at least on many of the pages, handwritten
23 numbers that run for the most part sequentially
24 through this document?

25 - - - -

1 financial analyst?

2 A. Yes.

3 Q. And did you prepare packages like this in the
4 ordinary course of your work as senior
5 financial analyst?

6 A. I prepared packages with cover sheets, the
7 credit information sheet, and, you know, the
8 attachments, the risk rating grids, the what's
9 called RAROC, R-A-R-O-C, report. The nature of
10 what's contained in it was obviously specific
11 to Allegheny General, AHERF, all those
12 entities, but this is the makeup of the type of
13 report I would have prepared, yes.

14 Q. Are there any parts of this report that you
15 would not have prepared in the ordinary course?

16 A. When I'm speaking about in the ordinary course
17 of preparing a review, there's a lot of
18 discussion in here if you look through here
19 about concern is growing over this because of
20 the nature of what's going on here, S&P
21 downgraded its rating, there's specifying in
22 here that address was going on with the
23 analysis of their financials and the
24 downgrades, et cetera.

25 That is not ordinary. That is

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1 specific to what is going on with maybe the
 2 entity we were looking at.
 3 Q. I just meant this type of document, is this --
 4 A. The format of it, yes.
 5 Q. This type of document is the type of document
 6 you prepared in the ordinary course?
 7 A. The format, yes.
 8 Q. And you would store documents like this in
 9 PNC's files in the ordinary course, as well?
 10 A. I would --
 11 Q. Store documents like this in PNC's files?
 12 A. Yes.
 13 Q. Would this go into the credit file that you
 14 referred to?
 15 A. Yes.
 16 Q. Can you tell what this particular credit
 17 information sheet was prepared for?
 18 A. The reason for submission on the front page of
 19 the credit information sheet, or CIS, is annual
 20 review. There's a block that's checked called
 21 annual review on the first one.
 22 On the second one, there are other
 23 blocks checked, including annual review.
 24 There's modification of commitment and
 25 commitment renewal. That one's for AGH

1 A. It's my recollection and it's based on PNC's
 2 way of doing the signature method of approval,
 3 getting away from the committee as we talked
 4 about before, it's my understanding and my
 5 recollection that this would actually record
 6 things in minutes that you would naturally have
 7 in a committee being taken as you're sitting
 8 there during the committee, but it's my
 9 understanding that this is how it's documented
 10 in the --
 11 Q. Let me see if I understand this properly. At
 12 this point in time when the five of you who are
 13 listed on this document had signed off on the
 14 credit information sheet, for practical
 15 purposes the actions requested were approved.
 16 Is that correct?
 17 A. They were approved as of that date, yes, of the
 18 signatories.
 19 Q. Was there any further approval that was
 20 required by any other person at PNC in order
 21 for the actions requested to be approved?
 22 A. I'm sorry. You were saying?
 23 Q. Let me rephrase that. Did anyone else have to
 24 sign off on the credit information sheet other
 25 than the five people listed here?

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1 specifically. Allegheny University Medical
 2 Centers' commitment renewal and annual review.
 3 That looks like the only ones we have.
 4 Q. The signatures on the first three pages next to
 5 the typewritten name, Paula Mammarella, are
 6 those your signatures?
 7 A. My signature appears by my name.
 8 Q. Do you see how for each of the first three
 9 pages there are a number of other signatures
 10 for Frank Taucher, W. Alex Eliason, C. David
 11 Cook, and Frank R. Krepp?
 12 A. Yes.
 13 Q. Are those the people you referred to earlier
 14 who would have to sign credit information
 15 sheets like these in order to approve actions
 16 mentioned in them?
 17 A. Those are the signatories, yes.
 18 Q. See how there's a stamp at the bottom that says
 19 recorded in the minutes of the market credit
 20 committee dated January 28, '98, and it says
 21 recording secretary and there's some initials
 22 above it?
 23 A. Yes.
 24 Q. Do you have any idea what that stamp and
 25 handwriting refers to?

1 A. Is there's a signature. There's a line below
 2 the signatures that says highest credit
 3 signatory affirmation that signatures are
 4 complete, and there's initials there, and
 5 that's the affirmation that you've gotten to
 6 the level that you need to. Someone's
 7 attesting to that.
 8 Q. Does that look like the initials FRK?
 9 A. Yes.
 10 Q. For Frank R. Krepp?
 11 A. Correct.
 12 Q. To your understanding, was that after he signs
 13 off on that that the actions requested in this
 14 credit information sheet were approved?
 15 A. Yes.
 16 Q. And the stamp reflects the creation of minutes
 17 after that?
 18 A. Yes.
 19 Q. And would those minutes reflect the discussions
 20 that had occurred between the five signatories?
 21 A. No.
 22 Q. What would those minutes reflect?
 23 A. I'm not sure everything that they would
 24 reflect, but a person that's stamping this
 25 wasn't in the discussions and meetings with the

PAULA MAMMARELLA

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1 that it's an executed form that indicates an
2 acceptance of the terms for renewal of the
3 letter of credit.

4 MR. TERUYA: Is it pretty standard
5 practice while you were senior financial
6 analyst for PNC to send to various health care
7 credits proposed terms and conditions in
8 advance of reaching any formalized agreement?

9 MR. POHL: Objection.

10 THE WITNESS: It's my understanding
11 that in banking, if you -- to have something
12 set up where you submit terms to a customer for
13 them to accept it, just the terms and
14 conditions, that that's pretty typical.

15 MR. TERUYA: Okay. We can set this
16 document aside.

17 I'm going to mark as Exhibit 1791 a
18 one-page document with Bates No. PNC 191, and
19 it appears to be a letter from Paula Mammarella
20 to Michael Martin dated January 6th, 1998.

21 - - - -

22 (Deposition Exhibit No. 1791 marked
23 for identification.)

24 - - - -

25 - - - -

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1 you mentioned that might have occurred either
2 at the meeting with David McConnell in April
3 of -- in April -- on April 1st, would one of
4 the steps at that meeting have been to discuss
5 AHERF's plans for dealing with noncompliance
6 with one of the covenants in one of the letters
7 of credit between AHERF and PNC?

8 MR. COGAN: Objection.

9 THE WITNESS: I can't recall
10 specifically what all was discussed then.

11 BY MR. TERUYA:

12 Q. Do you ever recall having any discussions while
13 you were a senior financial analyst at PNC
14 about what AHERF's plans were to respond to any
15 noncompliance by any AHERF entities?

16 A. I can't recall.

17 Q. Sort of on the flip side, I take it you don't
18 recall any discussions with any members of
19 AHERF management about their plans for dealing
20 with any noncompliance by any AHERF entities.

21 A. I don't recall specifics of the conversation
22 that was held on April 1st, but there was a
23 discussion on April 1st in a meeting that I was
24 attending. I don't remember the agenda.

25 Q. And other than that meeting, do you recall any

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1 (The witness reviewed the document.)

2 - - - -

3 BY MR. TERUYA:

4 Q. I'll ask you as you look at it if you recognize
5 this document.

6 A. I recognize it as a memo that I sent over to
7 Mike Martin in January.

8 Q. Do you recognize your signature down at the
9 bottom?

10 A. Yes.

11 Q. Could you tell me why you sent this memo to
12 Mike Martin.

13 A. As I'm reading it, it indicates that I'm asking
14 him to send me financial projection information
15 outlining plans to meet the liquidity covenant
16 by June 30th of 1998.

17 Q. Does looking at this refresh your memory in any
18 way that PNC had asked AHERF for plans as to
19 how it could meet the liquidity covenant by
20 6-30-98?

21 MR. POHL: Objection.

22 THE WITNESS: Only as I read it here
23 it refreshes --

24 MR. TERUYA: I think you mentioned
25 this, but let me ask you, was one of the steps

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1 other discussions you might have had with AHERF
2 management on that issue?

3 A. I can't recall.

4 Q. Okay. We can set 1791 aside.

5 I'm going to mark as Exhibit 1792 a
6 one-page letter from Paula Mammarella to
7 Michael Martin dated January 8, 1998, with
8 Bates No. PNC 43090.

9 - - - -

10 (Deposition Exhibit No. 1792 marked
11 for identification.)

12 - - - -

13 (The witness reviewed the document.)

14 - - - -

15 BY MR. TERUYA:

16 Q. Let me ask you as you look at it whether you
17 recognize this document.

18 A. Again, just as I'm reading it.

19 Q. Oh, okay. Do you recognize it as you're
20 reading it as a letter from you to Mike Martin
21 notifying Mike Martin that the letter of credit
22 that PNC had issued to Allegheny General
23 Hospital Obligated Group was being renewed for
24 a one-year term set to expire on January 29,
25 1999?

PAULA MAMMARELLA

<p style="text-align: right;">Page 230</p> <p>1 A. Yes, except it's to Allegheny General Hospital, 2 not the group. 3 Q. Okay. Do you recall any discussion you had at 4 the time? Does looking at this help you recall 5 any discussions about this? 6 A. No. I don't recall. 7 Q. Do you recognize your signature at the bottom 8 of this exhibit? 9 A. Yes. 10 Q. And you said that in the ordinary course you 11 would write letters like this to AHERF 12 management. Is that correct? 13 MR. COGAN: Objection. 14 THE WITNESS: There's no ordinary 15 course for any -- 16 MR. TERUYA: Sorry. I should have -- 17 Let me rephrase it more generally. 18 Do you recall writing letters -- 19 You said you recalled writing letters 20 from time to time to members of AHERF 21 management, even if they weren't letters 22 dealing with renewals. Is that right? 23 MR. POHL: Objection. 24 THE WITNESS: I recalled 25 correspondence with folks for any client that I</p>	<p style="text-align: right;">Page 232</p> <p>1 ----- 2 (The witness reviewed the document.) 3 ----- 4 BY MR. TERUYA: 5 Q. And let me ask you as you look at it whether 6 you recognize this document. 7 A. I recognize it as an amendment. I recognize my 8 handwriting at the top. It looks like it says 9 legal file and my signature on the back. 10 Q. Does this appear to be an amendment to a 1993 11 letter of credit issued by PNC to Allegheny 12 General Hospital? 13 A. Yes. 14 Q. And does it appear to be an amendment which 15 extends the expiration date of the letter of 16 credit to 5 P.M. on January 29th, 1999? 17 A. Where do you see -- 18 Q. I'm sorry; in the Section D on the first page. 19 A. Okay. Your question is? 20 Q. I'm sorry. Does this appear to be an amendment 21 to a 1993 letter of credit issued by PNC to AGH 22 to extend the expiration date of the letter of 23 credit until 5 P.M. on January 29th, 1999? 24 A. Yes, and to amend certain provisions of the 25 original agreement as provided in this</p>
<p style="text-align: right;">Page 231</p> <p>1 would work on requesting financial information 2 that might be by phone or FAX or the E-mail or 3 whatever. 4 I don't recall specifics of what I 5 sent back and forth between AHERF. 6 BY MR. TERUYA: 7 Q. Okay. Any letters that you did send to AHERF 8 management or received from them, you would 9 have in the ordinary course kept in the 10 correspondence section of the credit file. Is 11 that right? 12 A. In the ordinary course, yes. 13 Q. Do you recall receiving from time to time 14 certain letters from AHERF management? 15 A. I don't recall. 16 Q. Okay. We can set 1792 aside. 17 I'm going to mark as Exhibit 1793 a 18 document with Bates Nos. PNC 38971 through 74, 19 and it's captioned Amendment to Letter of 20 Credit Reimbursement and Security Agreement, 21 and it appears to be signed by Paula Mammarella 22 and appears to be dated as of January 29, 1998. 23 ----- 24 (Deposition Exhibit No. 1793 marked 25 for identification.)</p>	<p style="text-align: right;">Page 233</p> <p>1 agreement. 2 Q. And is one of the other provisions that's being 3 amended the fee that's being provided to PNC 4 from Allegheny General Hospital? And I'm 5 referring to the second page of the document 6 now. Sorry about that. 7 A. Okay. A renewal fee of 55/100 percent, yes. 8 Q. So does this indicate that a renewal fee is now 9 55 basis points? 10 MR. COGAN: Objection. 11 BY MR. TERUYA: 12 Q. Why don't I word my question in a more open 13 way. What's your understanding of what the 14 amendment listed on Page 2 next to No. 1 means? 15 A. Page 2 next to No. 1? 16 Q. Yes. What does the first amendment listed on 17 Page 2 mean? 18 A. There is to be added this paragraph that 19 includes the verbiage that indicates that 20 beginning in January 29th of 1998, and 21 continuing as long as any credit remains 22 available to the paying agent and a letter of 23 credit on the date of termination of the letter 24 of credit, the letter of credit commitment fee 25 payable by the corporation to the bank shall be</p>

PAULA MAMMARELLA

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1 COMMONWEALTH OF PENNSYLVANIA) E R R A T A
 2 COUNTY OF ALLEGHENY) S H E E T

3 I, PAULA MAMMARELLA, have read the foregoing
 4 pages of my deposition given on Monday, July 28,
 5 2003, and wish to make the following, if any,
 6 amendments, additions, deletions or corrections:

7 Page/Line Should Read Reason for Change
 8
 9
 10
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 12
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 15
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20 In all other respects, the transcript is true and
 21 correct.

22 _____
 PAULA MAMMARELLA

23 Subscribed and sworn to before me this
 24 _____ day of _____, 2003.

25 _____
 Notary Public
 AKF Reference No. Gd76557

Marks Dep.

In The Matter Of:

*AHERF v.
PRICEWATERHOUSECOOPERS*

STANLEY MARKS, M.D.

June 22, 2004

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1 threatening them that if they went with
 2 Allegheny, you know, that they'd put them out
 3 of business, they'd build a competing hospital.
 4 I mean that was UPMC's tactics at the time,
 5 even though I now work for them, that they
 6 threatened them that if they went with
 7 Allegheny, that there would be --
 8 Q. Repercussions?
 9 A. -- repercussions, negative, yeah, for them
 10 whereas in their dealings with Allegheny they
 11 just felt more comfortable and felt they'd make
 12 a better partner.
 13 Q. And Barry Roth was CEO of Forbes at the time;
 14 is that right?
 15 A. Yes.
 16 Q. If you would take a look at Exhibit 1988, which
 17 is one of the exhibits that Mr. Walker showed
 18 you earlier today, and for the record, that is
 19 the special meeting of the board of trustees of
 20 Allegheny Health, Education and Research
 21 Foundation, September 16th, 1996.
 22 You had flipped through this document
 23 and said you were obviously there. My question
 24 to you is that -- did you make that statement
 25 because you actually recall being present at

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1 that meeting or because you saw your name
 2 listed as a member on the third page of the
 3 document?
 4 A. Well, I saw my name listed, but also I remember
 5 being at a board meeting at Fifth Avenue Place,
 6 so unless that wasn't the same one, but I'm
 7 pretty sure I was there.
 8 Q. And the reason I mentioned that and I wanted to
 9 make sure you were aware that these were not
 10 minutes of that meeting, this would be a board
 11 packet that would have been submitted in
 12 advance of the meeting. So your name as a
 13 member doesn't necessarily indicate the fact
 14 that you were, in fact, there, but if you
 15 recall that, I just wanted to make sure.
 16 A. Yes.
 17 Q. Thank you. That's all I have on that document.
 18 There -- well, strike that.
 19 Were you aware that there were
 20 various committees of the AHERF board of
 21 directors?
 22 A. Yes.
 23 Q. Do you recall having served on any of those
 24 committees of the AHERF board?
 25 A. I don't recall. I don't think I did.

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1 Q. For example, you were not a member of the AHERF
 2 finance committee; is that correct?
 3 A. No.
 4 Q. And at any time were you a member of the
 5 executive committee of the AHERF board?
 6 A. No.
 7 Q. And earlier today when you talked about being a
 8 member of the executive committee, your
 9 references were to the executive committee of
 10 the medical staff --
 11 A. Yes.
 12 Q. -- is that correct?
 13 A. Yes.
 14 Q. Were you aware that there was actually an audit
 15 committee of the AHERF board?
 16 A. Yes.
 17 Q. Did you at any time serve as a member of the
 18 audit committee?
 19 A. Never.
 20 Q. Did you have any understanding of what the role
 21 of the audit committee was?
 22 A. No, just in, you know, simple terms they
 23 audited what went on at the board, at oversight
 24 committee.
 25 Q. Did you understand that they were an oversight

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1 committee for the operations of the hospital or
 2 the entity --
 3 A. I thought it was more financial but --
 4 Q. Financial, okay. Did you have an understanding
 5 during your tenure as a member of the AHERF
 6 board that AHERF had independent outside
 7 auditors that reviewed the financial statements
 8 prepared by management?
 9 A. Yes.
 10 Q. Did you know who those outside auditors were?
 11 A. I -- you know, I wouldn't know until I saw
 12 today. I mean I wouldn't remember.
 13 Q. Do you recall now that it was Coopers & Lybrand
 14 that was the outside --
 15 A. Yeah, now, but if you had asked me without
 16 seeing the documents, I wouldn't.
 17 Q. Okay. Do you recall ever being at any board
 18 meeting where there were representatives of
 19 Coopers & Lybrand present?
 20 A. I don't recall.
 21 Q. Do you recall ever having any interaction in
 22 any arena with any member or employee of
 23 Coopers & Lybrand that was involved in the
 24 audit of the AHERF financial statements?
 25 A. No, I don't think so. I don't recall anything.

22 (Pages 82 to 85)

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- 1 Q. Okay. All right. Did you have any
2 understanding as to the service that was
3 provided by Coopers & Lybrand as the outside
4 independent auditors of AHERF?
- 5 A. No, again, just in general terms they did an
6 independent audit of the financials.
- 7 Q. What was your understanding as to what it meant
8 to have an outside independent audit of AHERF's
9 financials?
- 10 A. Just in general to make sure that no one's
11 cooking the books, that the financials are
12 accurate.
- 13 Q. Do you recall ever seeing a report from Coopers
14 & Lybrand with respect to what they had found
15 in reviewing AHERF's audited financial
16 statements?
- 17 A. Offhand I don't recall.
- 18 Q. Do you recall ever hearing that the auditors of
19 Coopers & Lybrand had found anything irregular
20 in AHERF's financial statements in any respect?
- 21 A. No.
- 22 MR. WALKER: Objection, foundation.
- 23 Q. Are you familiar with the term clean opinion as
24 it relates to the audit of financial
25 statements?

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- 1 A. No, I mean only what it sounds like it means,
2 but I've never heard the term before.
- 3 Q. Okay. Did you have an understanding that after
4 reviewing the financial statements that were
5 presented by AHERF management, Coopers &
6 Lybrand issued an opinion with respect to those
7 financial statements?
- 8 A. That's -- you are asking me if that's what the
9 audited statement is? That's what I assumed it
10 meant.
- 11 Q. Okay. All right. And was it your
12 understanding that at all times Coopers &
13 Lybrand reported that it had found that AHERF's
14 financial statements fairly represented the
15 financial condition of AHERF and its
16 affiliates?
- 17 A. I wasn't aware of anything other than that.
- 18 Q. Other than that?
- 19 A. Yeah.
- 20 Q. Okay. Did you have any view at the time you
21 sat on the AHERF board as to the significance
22 of receiving such an opinion from Coopers &
23 Lybrand?
- 24 A. I mean I just thought it was routine.
- 25 Q. Okay.

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- 1 A. Routine business.
- 2 Q. Would it have been routine business if Coopers
3 & Lybrand had notified the board that they
4 found that the financial statements did not
5 fairly and accurately represent the true
6 financial condition of AHERF?
- 7 MR. WALKER: Objection, speculative.
- 8 Q. You can answer.
- 9 A. Would have raised flags.
- 10 Q. And would you have looked to the other members
11 of the finance and audit committee to address
12 those issues if they had been raised or those
13 flags if they had been raised by Coopers &
14 Lybrand?
- 15 A. Yes.
- 16 MR. WALKER: Same objection.
- 17 Q. And that's something that you would have
18 expected the audit committee to address if such
19 a circumstance had occurred; correct?
- 20 A. Yes.
- 21 Q. That was not something you felt was your
22 role --
- 23 A. No.
- 24 Q. -- as a member of the board; correct?
- 25 A. Yes.

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- 1 Q. And you had mentioned Mr. Gumberg and
2 Mr. Barnes and several others to be what you
3 considered to be active members of the AHERF
4 board. Do you recall knowing who the members
5 of the audit committee of the AHERF board were
6 during your tenure?
- 7 A. No.
- 8 Q. Do you recall the audit committee of the AHERF
9 board presenting the audited financial
10 statements to the board as a whole during
11 meetings that you attended on an annual basis?
- 12 A. I don't recall.
- 13 Q. Do you ever recall hearing that at some point
14 in time PriceWaterhouseCoopers, which became
15 the successor to Coopers & Lybrand, their
16 services with AHERF were terminated?
- 17 A. No.
- 18 Q. Do you recall there being a time when AHERF and
19 PriceWaterhouseCoopers issued a press release
20 stating that the audited financial statements
21 for fiscal year 1997 of AHERF and its
22 affiliates could no longer be relied upon?
- 23 A. No.
- 24 Q. Earlier today Mr. Walker asked you about
25 Exhibit 1661 which contained the audited

<p style="text-align: right;">Page 90</p> <p>1 financial statements of AHERF and its 2 affiliates for fiscal year-end or fiscal year 3 1996, and he asked you about investment 4 income -- 5 A. Mm-hmm. 6 Q. -- and AHERF's reliance on investment income. 7 Based on your experience in working at various 8 hospitals, was it your understanding that 9 hospitals, and particularly nonprofit 10 hospitals, typically have to rely on investment 11 income -- 12 MR. WALKER: Objection. 13 Q. -- as a portion of their revenue? 14 A. Yes. 15 Q. Okay. Was that something that struck you as 16 unusual, that AHERF relied on investment income 17 as a portion of its revenue? 18 A. No, I mean certainly nowadays it's much worse 19 than it used to be, but I can't recall back 20 then if it was a big deal or not. 21 Q. Okay. When you say it's much worse than it 22 used to be -- 23 A. Well, because all hospitals have no profits on 24 the operating side anymore for the most part. 25 Q. So they have to rely on their investment</p>	<p style="text-align: right;">Page 92</p> <p>1 COMMONWEALTH OF PENNSYLVANIA) CERTIFICATE 2 COUNTY OF ALLEGHENY) SS: 3 I, Heidi H. Willis, RPR, CRR, a Court Reporter 4 and Notary Public in and for the Commonwealth of 5 Pennsylvania, do hereby certify that the witness, 6 STANLEY MARKS, M.D., was by me first duly sworn to 7 testify to the truth, the whole truth, and nothing 8 but the truth; that the foregoing deposition was 9 taken at the time and place stated herein; and that 10 the said deposition was recorded stenographically by 11 me and then reduced to printing under my direction, 12 and constitutes a true record of the testimony given 13 by said witness. 14 I further certify that I am not a relative or 15 employee of any of the parties, or a relative or 16 employee of either counsel, and that I am in no way 17 interested directly or indirectly in this action. 18 IN WITNESS WHEREOF, I have hereunto set my hand 19 and affixed my seal of office this 23rd day of June, 20 2004. 21 22 23 _____ 24 Notary Public 25</p>
<p style="text-align: right;">Page 91</p> <p>1 income? 2 A. Mm-hmm. 3 Q. Was that a yes? 4 A. Yes. 5 MS. MEADEN: You have to keep your 6 responses verbal. Just a quick minute here. 7 I don't believe I have any further 8 questions for you. Thank you. 9 MR. WALKER: Nothing further, Doctor. 10 Thanks. 11 THE VIDEOGRAPHER: There being no 12 further questions. This deposition is 13 concluded. Thanks. 14 - - - - 15 (The proceedings were concluded at 12:23 p.m.) 16 - - - - 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 93</p> <p>1 COMMONWEALTH OF PENNSYLVANIA) E R R A T A 2 COUNTY OF ALLEGHENY) S H E E T 3 4 I, Stanley Marks, M.D., have read the foregoing 5 pages of my deposition given on Tuesday, June 22, 6 2004, and wish to make the following, if any, 7 amendments, additions, deletions or corrections: 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>In all other respects, the transcript is true and correct.</p> <p style="text-align: center;">_____ STANLEY MARKS</p> <p>Subscribed and sworn to before me this ____ day of _____, 2004.</p> <p style="text-align: center;">_____ Notary Public AKF Reference No. HW81344</p>